

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 793

Introduced by Assembly Member Gray
(Principal coauthor: Senator Cannella)

February 21, 2013

An act to amend Section 399.30 of the Public Utilities Code, relating to renewable energy.

LEGISLATIVE COUNSEL’S DIGEST

AB 793, as amended, Gray. Renewable energy: publicly owned electric utility: hydroelectric generation facility.

The California Renewables Portfolio Standard Program, referred to as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period from January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with

the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as portfolio content requirements.

This bill would provide that a local publicly owned electric utility is not required to procure additional eligible renewable energy resources in excess of specified levels, if it receives 50% or greater of its annual retail sales from its own hydroelectric generation meeting specified requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 399.30 of the Public Utilities Code is
- 2 amended to read:
- 3 399.30. (a) To fulfill unmet long-term generation resource
- 4 needs, each local publicly owned electric utility shall adopt and
- 5 implement a renewable energy resources procurement plan that
- 6 requires the utility to procure a minimum quantity of electricity
- 7 products from eligible renewable energy resources, including
- 8 renewable energy credits, as a specified percentage of total
- 9 kilowatthours sold to the utility's retail end-use customers, each
- 10 compliance period, to achieve the targets of subdivision (c).
- 11 (b) The governing board shall implement procurement targets
- 12 for a local publicly owned electric utility that require the utility to
- 13 procure a minimum quantity of eligible renewable energy resources
- 14 for each of the following compliance periods:
- 15 (1) January 1, 2011, to December 31, 2013, inclusive.
- 16 (2) January 1, 2014, to December 31, 2016, inclusive.
- 17 (3) January 1, 2017, to December 31, 2020, inclusive.
- 18 (c) The governing board of a local publicly owned electric utility
- 19 shall ensure all of the following:
- 20 (1) The quantities of eligible renewable energy resources to be
- 21 procured for the compliance period from January 1, 2011, to
- 22 December 31, 2013, inclusive, are equal to an average of 20 percent
- 23 of retail sales.
- 24 (2) The quantities of eligible renewable energy resources to be
- 25 procured for all other compliance periods reflect reasonable

1 progress in each of the intervening years sufficient to ensure that
2 the procurement of electricity products from eligible renewable
3 energy resources achieves 25 percent of retail sales by December
4 31, 2016, and 33 percent of retail sales by December 31, 2020.
5 The local governing board shall require the local publicly owned
6 electric utilities to procure not less than 33 percent of retail sales
7 of electricity products from eligible renewable energy resources
8 in all subsequent years.

9 (3) A local publicly owned electric utility shall adopt
10 procurement requirements consistent with Section 399.16.

11 (d) The governing board of a local publicly owned electric utility
12 may adopt the following measures:

13 (1) Rules permitting the utility to apply excess procurement in
14 one compliance period to subsequent compliance periods in the
15 same manner as allowed for retail sellers pursuant to Section
16 399.13.

17 (2) Conditions that allow for delaying timely compliance
18 consistent with subdivision (b) of Section 399.15.

19 (3) Cost limitations for procurement expenditures consistent
20 with subdivision (c) of Section 399.15.

21 (e) The governing board of the local publicly owned electric
22 utility shall adopt a program for the enforcement of this article on
23 or before January 1, 2012. The program shall be adopted at a
24 publicly noticed meeting offering all interested parties an
25 opportunity to comment. Not less than 30 days' notice shall be
26 given to the public of any meeting held for purposes of adopting
27 the program. Not less than 10 days' notice shall be given to the
28 public before any meeting is held to make a substantive change to
29 the program.

30 (f) (1) Each local publicly owned electric utility shall annually
31 post notice, in accordance with Chapter 9 (commencing with
32 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
33 Code, whenever its governing body will deliberate in public on its
34 renewable energy resources procurement plan.

35 (2) Contemporaneous with the posting of the notice of a public
36 meeting to consider the renewable energy resources procurement
37 plan, the local publicly owned electric utility shall notify the
38 Energy Commission of the date, time, and location of the meeting
39 in order to enable the Energy Commission to post the information
40 on its Internet Web site. This requirement is satisfied if the local

1 publicly owned electric utility provides the uniform resource
2 locator (URL) that links to this information.

3 (3) Upon distribution to its governing body of information
4 related to its renewable energy resources procurement status and
5 future plans, for its consideration at a noticed public meeting, the
6 local publicly owned electric utility shall make that information
7 available to the public and shall provide the Energy Commission
8 with an electronic copy of the documents for posting on the Energy
9 Commission's Internet Web site. This requirement is satisfied if
10 the local publicly owned electric utility provides the uniform
11 resource locator (URL) that links to the documents or information
12 regarding other manners of access to the documents.

13 (g) A public utility district that receives all of its electricity
14 pursuant to a preference right adopted and authorized by the United
15 States Congress pursuant to Section 4 of the Trinity River Division
16 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
17 with the renewable energy procurement requirements of this article.

18 (h) For a local publicly owned electric utility that was in
19 existence on or before January 1, 2009, that provides retail electric
20 service to 15,000 or fewer customer accounts in California, and is
21 interconnected to a balancing authority located outside this state
22 but within the WECC, an eligible renewable energy resource
23 includes a facility that is located outside California that is
24 connected to the WECC transmission system, if all of the following
25 conditions are met:

26 (1) The electricity generated by the facility is procured by the
27 local publicly owned electric utility, is delivered to the balancing
28 authority area in which the local publicly owned electric utility is
29 located, and is not used to fulfill renewable energy procurement
30 requirements of other states.

31 (2) The local publicly owned electric utility participates in, and
32 complies with, the accounting system administered by the Energy
33 Commission pursuant to this article.

34 (3) The Energy Commission verifies that the electricity
35 generated by the facility is eligible to meet the renewables portfolio
36 standard procurement requirements.

37 (i) Notwithstanding subdivision (a), for a local publicly owned
38 electric utility that is a joint powers authority of districts established
39 pursuant to state law on or before January 1, 2005, that furnish
40 electric services other than to residential customers, and is formed

pursuant to the Irrigation District Law (Division 11 (commencing with Section 20500) of the Water Code), the percentage of total kilowatthours sold to the district's retail end-use customers, upon which the renewables portfolio standard procurement requirements in subdivision (b) are calculated, shall be based on the authority's average retail sales over the previous seven years. If the authority has not furnished electric service for seven years, then the calculation shall be based on average retail sales over the number of completed years during which the authority has provided electric service.

(j) A local publicly owned electric utility in a city and county that only receives greater than 67 percent of its electricity sources from hydroelectric generation located within the state that it owns and operates, and that does not meet the definition of a "renewable electrical generation facility" pursuant to Section 25741 of the Public Resources Code, shall be required to procure eligible renewable energy resources, including renewable energy credits, to meet only the electricity demands unsatisfied by its hydroelectric generation in any given year, in order to satisfy its renewable energy procurement requirements.

(k) (1) A local publicly owned electric utility that receives greater than 50 percent of its annual retail sales from its own hydroelectric generation that is not an eligible renewable energy resource shall not be required to procure additional eligible renewable energy resources in excess of either of the following:

(A) The portion of its retail sales not supplied by its own hydroelectric generation.

(B) The cost limitation adopted pursuant to this section.

(2) For the purposes of this subdivision, "hydroelectric generation" means electricity generated from a hydroelectric facility satisfying all of the following:

(A) Is owned solely and operated by the local publicly owned electric utility as of 1967.

(B) Serves a local publicly owned electric utility with a distribution system demand of less than 150 megawatts.

(C) Involves a contract in which an electrical corporation receives the benefit of the electric generation through June of 2014, at which time the benefit reverts back to the ownership and control of the local publicly owned electric utility.

1 (D) *Has a maximum penstock flow capacity of no more than*
2 *3,200 cubic feet per second and includes a regulating reservoir*
3 *with a small hydroelectric generation facility producing fewer*
4 *than 20 megawatts with a maximum penstock flow capacity of no*
5 *more than 3,000 cubic feet per second.*

6 (3) This subdivision does not reduce or eliminate any renewable
7 procurement requirement for any compliance period ending prior
8 to January 1, 2014.

9 (4) This subdivision does not require a local publicly owned
10 electric utility to purchase additional renewable energy resources
11 in excess of the renewable procurement requirements set forth in
12 subdivision (c).

13 (l) A local publicly owned electric utility shall retain discretion
14 over both of the following:

15 (1) The mix of eligible renewable energy resources procured
16 by the utility and those additional generation resources procured
17 by the utility for purposes of ensuring resource adequacy and
18 reliability.

19 (2) The reasonable costs incurred by the utility for eligible
20 renewable energy resources owned by the utility.

21 (m) On or before July 1, 2011, the Energy Commission shall
22 adopt regulations specifying procedures for enforcement of this
23 article. The regulations shall include a public process under which
24 the Energy Commission may issue a notice of violation and
25 correction against a local publicly owned electric utility for failure
26 to comply with this article, and for referral of violations to the
27 State Air Resources Board for penalties pursuant to subdivision
28 (o).

29 (n) (1) Upon a determination by the Energy Commission that
30 a local publicly owned electric utility has failed to comply with
31 this article, the Energy Commission shall refer the failure to comply
32 with this article to the State Air Resources Board, which may
33 impose penalties to enforce this article consistent with Part 6
34 (commencing with Section 38580) of Division 25.5 of the Health
35 and Safety Code. Any penalties imposed shall be comparable to
36 those adopted by the commission for noncompliance by retail
37 sellers.

38 (2) If Division 25.5 (commencing with Section 38500) of the
39 Health and Safety Code is suspended or repealed, the State Air
40 Resources Board may take action to enforce this article on local

1 publicly owned electric utilities consistent with Section 41513 of
2 the Health and Safety Code, and impose penalties on a local
3 publicly owned electric utility consistent with Article 3
4 (commencing with Section 42400) of Chapter 4 of Part 4 of, and
5 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
6 Division 26 of the Health and Safety Code.

7 (3) For the purpose of this subdivision, this section is an
8 emissions reduction measure pursuant to Section 38580 of the
9 Health and Safety Code.

10 (4) If the State Air Resources Board has imposed a penalty upon
11 a local publicly owned electric utility for the utility's failure to
12 comply with this article, the State Air Resources Board shall not
13 impose an additional penalty for the same infraction, or the same
14 failure to comply, with any renewables procurement requirement
15 imposed upon the utility pursuant to the California Global Warming
16 Solutions Act of 2006 (Division 25.5 (commencing with Section
17 38500) of the Health and Safety Code).

18 (5) Any penalties collected by the State Air Resources Board
19 pursuant to this article shall be deposited in the Air Pollution
20 Control Fund and, upon appropriation by the Legislature, shall be
21 expended for reducing emissions of air pollution or greenhouse
22 gases within the same geographic area as the local publicly owned
23 electric utility.

24 (o) The commission has no authority or jurisdiction to enforce
25 any of the requirements of this article on a local publicly owned
26 electric utility.